

REMARKS

With this Response, claims 1, 9, 13, and 17 are amended. No claims are added or canceled. Therefore, claims 1-20 are currently pending.

REGARDING THE CLAIMS AMENDMENTS

Applicants submit that the claims as originally filed are patentable over the cited references. Thus, the claim amendments are neither necessary for, nor are they relied on for patentability over the cited references. Applicants submit that the added phrase of the claim amendments "to a decoder" would have been understood by one of skill in the art in the claims as originally filed, but Applicants have included the phrase in an attempt to expedite examination and prosecution of the case.

ALLOWABLE SUBJECT MATTER

Claims 3 and 8 were objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form. Applicants submit that the rejection of claim 1, from which these claims depend, is overcome herein, and therefore, claims 3 and 8 are in condition for allowance as currently written.

CLAIM REJECTIONS - 35 U.S.C. § 102

Claims 1, 4, 6-7, and 9-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No 6,728,669 of Benno (*Benno*). Applicant respectfully submits that the remaining claims are not rendered obvious by the cited references for at least the following reasons.

Claim 1 as amended herein recites in part the following:

encoding a first and a second subframe of a frame of data, each subframe having multiple tracks;
identifying one of the multiple tracks for each subframe; and

generating a track indicator to indicate to a decoder the identified track for both subframes.

Claims 9, 13, and 17 similarly recite identifying one of multiple tracks.

The Office Action relies on *Benno* as disclosing the claimed invention. Applicants traverse. The reference is off topic, and fails to support a prima facie case of rejection for anticipation under MPEP § 2131. The claimed invention recites identifying one of multiple tracks for each subframe and generating a track indicator. In contrast, the cited reference fails to disclose or suggest the identifying of a track or the generating of a track indicator. The section of *Benno* relied on in the Office Action recites in whole:

CELP vocoders contain three main components: 1) short term predictive filter, 2) long term predictive filter, also known as pitch predictor or adaptive codebook, and 3) fixed codebook. Compression is achieved by assigning a certain number of bits to each component which is less than the number of bits used to represent the original speech signal.

Applicants are unable to understand how recitation of compression relates to indicating one of multiple tracks in a subframe. The Office Action also refers to figures 5 and 6, which purport to depict tracks with pulse positions. Whether or not the figures display tracks with various pulse positions, neither the figures, nor any part of the cited reference, refer to identifying one of the tracks and indicating the tracks.

As Applicants have understood the reference, *Benno* merely discusses the placement of pulses within the tracks of a subframe, and fails to disclose or suggest identifying a track or generating a track indicator, as recited in the claims. Thus, *Benno* fails to disclose or suggest at least one element of the claimed invention, and so fails to support a prima facie case of anticipation under MPEP § 2131.

The remaining claims depend, either directly or indirectly, from these claims, and therefore necessarily include the limitations of the claims from which they respectively depend.

For at least the same reasons cited above, Applicants submit that the cited reference fails to support an anticipation rejection of these claims.

CLAIM REJECTIONS - 35 U.S.C. § 103

Claim 2

Claims 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Benno*.

Claim 2 depend from claim 1, discussed above. As shown above, *Benno* fails to support a rejection of claim 1, and so fails to support a rejection of claim 2 for at least the reasons set forth above.

Claim 5

Claims 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Benno* in view of the scholarly article "A Silence Compression Scheme for Use With G.729 Optimized for V.70 Digital Simultaneous Voice and Data Applications," IEEE publication, 1997, of Benyassine et al. (*Benyassine*). Applicants note that claim 5 depends from claim 1, discussed above. As discussed above, *Benno* fails to support a rejection of claim 1. *Benyassine* fails to cure the deficiencies of *Benno*, discussed above. The references, whether alone, or in combination, fail to disclose or suggest identifying a track or generating a track indicator, as recited in the independent claims. Because the independent claims are patentable over the cited references for at least the reasons set forth above, the dependent claim is likely patentable over the cited references for at least the same reasons set forth above. See MPEP § 2143.03.

CONCLUSION

For at least the foregoing reasons, Applicants submit that the rejections have been overcome, placing all pending claims in condition for allowance. Such action is earnestly

solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date:

6/17/05

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